



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

EPA Region 5 Records Ctr.



390047

AUG 10 1990

Mr. Bus White
Rural Route 2
P.O. Box 408B
St. Mary's, Virginia 26170

REPLY TO ATTENTION OF: 5CS-TUB-3

Re: Bus White Landfill, Saginaw County, Michigan

Dear Mr. White:

I have been contacted by Mr. George Carpenter of the Michigan Department of Natural Resources (MDNR) respecting the above-referenced facility. Mr. Carpenter has informed me that hazardous substances have been, or may be, released from the facility and, accordingly, the MDNR has sought access to the site for the purpose of conducting a preliminary investigation. Mr. Carpenter has informed me that he has written to you, seeking access to the facility and providing a date by which you were to respond. You did not respond in writing, but when Mr. Carpenter reached you by telephone and explained the need to enter the site, you declined to grant access.

Because the MDNR was attempting to carry out the preliminary investigation of the site pursuant to a cooperative agreement with the United States Environmental Protection Agency, Mr. Carpenter asked me to secure access to the site pursuant to the U.S. EPA's procedures. As part of that process, I have sought to contact you by telephone on numerous occasions to explain the MDNR's authority to enter the site. Because I was unable to reach you by telephone, I sent you a letter by certified mail on July 13, 1990 to provide you with the appropriate information. The letter was returned to me with the notation that you never claimed it.


Under section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. s. 9604(e), any duly designated officer or employee of a state acting pursuant to a cooperative agreement with the U.S. EPA is authorized to enter any property where any hazardous substance, pollutant or contaminant has been stored or disposed of and any property from which a release of any hazardous substance, pollutant or contaminant has occurred or is threatened. Furthermore, any such officer or employee is authorized to enter any property where entry is needed to determine whether responsive action under CERCLA is necessary. Finally, if consent is not given to a request by any officer or employee of the state, the U.S. EPA may issue an administrative

order directing compliance with the request. Additionally, the United States may seek a court order permitting access to the property in question, or enjoining any interference with the state's right to enter the property.

While the foregoing authority would empower the U.S. EPA, cooperating state agencies and private entities acting pursuant to contracts with the U.S. EPA or cooperating states to enter the property without the owner's consent, it is the EPA's practice to obtain, if possible, the owner's voluntary consent before resorting to formal enforcement mechanisms. Accordingly, I hereby repeat the request that representatives of the U.S. EPA (or its contractors) or the MDNR be allowed to enter the site to conduct soil and water sampling.

Because I could not reach you by telephone, and because you did not claim the certified letter that I sent you, you should consider this your final opportunity to respond with your concerns about access to your property. Please contact me within seven (7) days of the date of this letter. You may reach me at (312) 886-5348. If I do not hear from you within that seven-day period, I will assume that you have no response, and will proceed accordingly.

Sincerely,



Thomas M. Williams
Assistant Regional Counsel

bcc: Donald Josif (5HSM-TUB-7)